

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

UNITED STATES OF AMERICA:

V.

Case No. 1:20-MJ-312

MATTHEW ERAUSQUIN :

RESPONSE TO GOVERNMENT MOTION TO EXTEND
TIME FOR INDICTMENT

Matthew Erausquin, by and through counsel, hereby responds to the government's request to extend any indictment period. Please consider the following:

1. Mr. Erausquin was arrested in South Florida in the middle of November 2020.
2. The undersigned represented Mr. Erausquin via a Zoom hearing held in Miami on the 25th of November. We requested his transport and informed the Court we desired a bond hearing and preliminary hearing here—in the Eastern District of Virginia. We did not waive either hearing and informed the Court in Miami

that we were preparing for our anticipated detention/preliminary here.

3. From November of 2020 up until February 8, 2021, Mr. Erausquin sat in the Federal Detention Facility in Miami. Despite numerous requests and inquiries with the Marshals service, nothing happened.
4. Moreover, Erausquin had virtually no attorney client privileged calls with the undersigned. Finally, about one week ago we had a 15 minute call with our client about the case and his transport. Matthew developed an eye infection since he was wearing his one pair of contacts since his arrest in November. His family was then cleared, about two weeks ago after much delay, to send him new contacts.
5. Due to a chronic disease, Mr. Erausquin lost about 40 pounds because of the conditions in Miami.
6. Counsel has been stonewalled in terms of Erausquin's transportation and our inability to speak with him about his case. We have inquired of the Marshals service several times both in person and otherwise. There is simply no valid reason why

Erausquin has not been transported to this district for a prompt bond motion and preliminary hearing. Three months is far too long.

7. Mr. Erausquin has had no real ability to consult privately with counsel about his case. We lost valuable preparation time and months of consultation opportunities. His right to have effective representation has been squashed by our inability to speak with him about his case.
8. In all the years of practice before this Court, we have seldom witnessed the inordinate delay of transport to our district for bond consideration--regardless of the current Covid situation.
9. On February 8, 2021, Mr. Erausquin was put on a plane to Oklahoma. When he arrived in Oklahoma, he was housed in a private prison, a wholly disorganized facility. The jail was kept at a 45 degree level and Erausquin is one flare up of his condition away from serious medical complications. While transport is never a fun experience, the conditions and the delay here are truly extraordinary.

10. On December 14, 2020, the United States previously requested an extension of the indictment period. Counsel was not notified of that motion as we had not yet entered a formal appearance in the EDVA (though we already had appeared in the Southern District of Florida). The date of indictment was thus moved to February 18, 2021.

11. The United States has now filed a second motion to extend.

While we certainly recognized there can be no indictment without grand jurors, we file this position to note that the substantial delay in his transport has impacted his due process right and his right to have privileged communication and contact with counsel.

12. Accordingly, if the Court is inclined to grant the extension, we are asking the Court to issue an order or include language requesting that Mr. Erausquin be transported forthwith or immediately to this district for his bond and preliminary hearing. We are also requesting he be housed in a facility close to counsel such as the Alexandria Detention Facility so we can have sufficient contact with him in preparation for his bond and

preliminary hearing. We defer to the Court as to any other relief or language the Court deems just and fair in this situation.

Respectfully submitted,
Matthew Erausquin

By Counsel

/s/

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CERTIFICATE OF SERVICE

I, hereby certify, that on the 12th day of February, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following and all parties to this action:

United States Attorney's Office
2100 Jamieson Ave
Alexandria, VA 22314
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/s/
Frank Salvato

